



## *COMMONWEALTH of VIRGINIA*

VWP Individual Permit Number: 99-2064

Effective Date: December 5, 2003

Minor Modification No. 1 Date: September 11, 2012

Minor Modification Date No. 2: October 24, 2013

Expiration Date: December 4, 2018

### **VIRGINIA WATER PROTECTION PERMIT MODIFIED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT**

Based upon an examination of the information submitted by the owner, and in compliance with § 401 of the Clean Water Act as amended (33 USC 1341) and the State Water Control Law and regulations adopted pursuant thereto, the State Water Control Board (board) has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to surface waters, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.

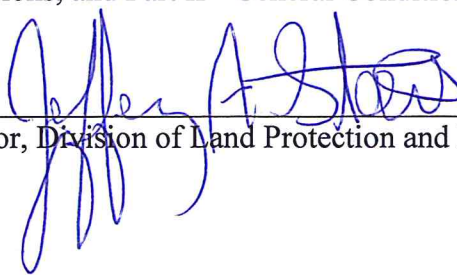
**Permittee:** Stafford County Department of Utilities

**Address:** 20 PGA Drive, Suite 201  
Stafford, Virginia 22554

**Activity Location:** Rocky Pen Run, a tributary to the Rappahannock River and the Rappahannock River in Stafford County

**Activity Description:** The construction and operation of a water supply reservoir on Rocky Pen Run and the construction and operation of a water supply intake on the Rappahannock River for municipal water supply purposes.

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions, and Part II - General Conditions.

  
\_\_\_\_\_  
Director, Division of Land Protection and Revitalization

10-24-13  
\_\_\_\_\_  
Date

**A. Authorized Activities**

1. This permit authorizes the construction and operation of Rocky Pen Run Reservoir and an intake on the Rappahannock River as indicated in the Joint Permit Application dated October 1999, received in October 1999 and deemed complete on January 22, 2003.
2. The project activities, including any conditions and limitations, described in the Joint Permit Application and any supplemental materials submitted by the applicant, or authorized agent, shall be adhered to for the term of this permit.
3. The permittee shall notify the Department of Environmental Quality, Office of Water Supply of any additional impacts to State waters, including wetlands, associated with this project. Any additional impacts to State waters, including wetlands, shall be subject to individual permit review or modification of this permit, and compensatory mitigation will be required.

**B. Permit Term**

1. This permit is valid for 15 years from the date of issuance. Re-issuance of the permit may be necessary if any portion of the authorized activities or any permit requirement (including compensatory mitigation provisions) has not been completed. At least 180 calendar days prior to the expiration date of this permit, the permittee shall notify DEQ in writing of his or her intent to continue one or more of the authorized activities. A new permit application shall be required by DEQ at that time. DEQ, acting on behalf of the State Water Control Board (board), may issue a new permit or may issue a new permit with new or modified conditions, or the Board may deny the issuance of a permit at that time.
2. DEQ, on behalf of the board may reopen and modify this permit if after issuance the project operations are determined to have adverse impacts on fish and wildlife resources or to water quality. The permittee may apply for a permit modification after permit issuance or reissuance when project operations change or when a change in water supply need occurs, or for any other purpose allowable by law or regulation. If applicable, any necessary major modifications to the permit shall include similar public participation procedures as those implemented during the issuance of the permit. Modifications shall not include extension of the permit term beyond 15 years.

**C. Standard Project Conditions**

1. The activities authorized by this permit shall be executed in a manner to minimize any adverse impact on stream beneficial uses, as defined in § 62.1-10(b) of the Code.

2. The permittee shall employ measures to prevent spills of fuels, lubricants, or other pollutants into State waters.
3. All dredging and/or filling in State waters shall be accomplished in a manner that minimizes stream bottom disturbances and turbidity increases.
4. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows. Flows downstream of the project area shall be maintained to protect all uses.
5. The permittee shall not conduct any instream work in the Rappahannock River outside of a cofferdam between February 15<sup>th</sup> and June 30<sup>th</sup> unless granted a variance from these dates in writing by the Department of Game and Inland Fisheries.
6. All construction, construction access (for example, cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this permit.
7. Immediately downstream of the project area, water quality standards shall not be violated as a result of the construction activities.
8. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area stabilizes.
9. Any exposed slopes or streambanks must be stabilized immediately upon completion of the project at each water body. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
10. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters. Appropriate best management practices (BMP) shall be deemed suitable treatment prior to discharge into state waters.

11. No machinery may enter flowing waters, unless authorized by this permit.
12. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.
13. Wet or uncured concrete shall be prohibited from entry into flowing surface waters.
14. All non-impacted surface waters within the project or right-of-way limits that are within fifty feet of any clearing, grading, or filling activities shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that these marked areas are surface waters where no activities are to occur.
15. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable measures to minimize soil disturbance to the maximum extent practical. Mats shall be removed as soon as the work is complete.
16. Temporary disturbances to wetlands during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to pre-construction conditions and planted or seeded with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote revegetation of temporarily disturbed wetland areas with wetland vegetation by the second year post-disturbance. All temporary fills shall be removed in their entirety and the affected area returned to pre-existing contours.
17. All materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into State waters, managed such that leachate does not enter State waters, and entirely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, stabilized within 30 days following removal of the stockpile, and restored to the original vegetated state.
18. In issuing this permit, the Board has not taken into consideration the structural stability of any proposed structure(s).
19. Pursuant to the State Scenic River status of the Rappahannock River, it is the intent of this permit that the County shall preserve as much as possible of the natural scenic vista along the Rappahannock River by implementing the highest practical level of scenic protection along the river.

Stafford County will evaluate not less than three (3) alternative configurations of water withdrawal and pumping station facilities, to include:

- a. Installation of an "intake pool" off of the main stem of the river, fed by a channel through the riverbank. Intake and pumping facilities shall be located as far from the river as practical with sufficient natural and augmented vegetation to minimize their view from the river.
- b. Installation of intake pipes under the riverbank with the use of submerged intake screens in the river channel. Construction of a submersible style pumping station with the principle structure constructed at and below existing grade, followed by restoration and re-vegetation of the riverbank above the pipes and placement of a vegetated earthen berm to provide additional screening of the intake and pumping facilities. All electrical, control or other facilities shall be located as far from the river as practical with sufficient natural and augmented vegetation to minimize their view from the river.
- c. Installation of a "conventional" river's edge intake and above grade pumping station.

For any option chosen, the County will restrict the total length of the portion of the water intake visible above the ordinary high water line from the beginning of rip rap protection upstream to the end of downstream rip rap protection to be no longer than 200 feet, nor extend more than 5 feet into the river from the bank at ordinary high water. This provision excludes debris deflectors and safety devices (warning buoys, etc.) visible above the water surface as well as intake pipe, screens and associated structural facilities constructed below the water surface. The concrete top of the intake structure shall be the minimum height necessary to structurally protect the intake during flooding, but in no case higher than the approximate top of bank elevation adjacent to the intake. If needed for structural stability, the permittee may grade back the slope behind the intake.

Innovative designs that achieve a high level of scenic protection such as those outlined in Part I.C.19.a and I.C.19.b are preferred.

Irrespective of the configuration option chosen, the County shall develop and follow a scenic preservation plan to guide the design and construction practices. This plan shall include the following provisions:

- d. The natural forested buffer shall be preserved to the maximum extent practical.

- e. All disturbed areas will be revegetated with understory and canopy vegetation to the maximum extent practical, including both evergreen and deciduous species.
- f. Layout of structures shall be done so as to utilize the screening value of the natural forested buffer, to the maximum extent practical.
- g. The impervious cover "footprint" in the river buffer shall be minimized, to the maximum extent practical.
- h. Areas slated for revegetation shall be filled with the appropriate soils and protected from over-compaction so as to promote the healthy and vigorous growth of the vegetative buffer. The "canopy drip line" of preserved forested areas shall be temporarily fenced during construction to prevent compaction of the root zone.
- i. Stabilization activities on the disturbed riverbank will make every practical effort to avoid the use of a high-visibility rip-rap embankment. This shall include the exploration of geotextile/bioengineering alternatives, and/or the infill of riprap with soil and the planting with suitable species. Every practical effort shall be made to restore the riverbank to a natural vegetated state.

Stafford County will prepare a report summarizing the analysis of various options to include preliminary drawings and, following consultation with appropriate regulatory and advisory agencies, determine the alternative which provides the least visual impacts and is practical based upon criteria such as financial, safety, operation and maintenance, and aesthetics. The permittee shall be responsible for demonstrating to the satisfaction of the DEQ that "maximum practical" measures for scenic protection (as identified above) are incorporated into the design and construction plan for this project, based upon consideration of financial, safety, operation and maintenance, and aesthetic criteria.

**D. Water Withdrawal and Minimum Release Conditions**

1. The maximum single day withdrawal from the Rappahannock River shall not exceed 40 million gallons per day.
2. The maximum instantaneous withdrawal from the Rappahannock River shall not exceed 28,000 gallons per minute.
3. The maximum withdrawal from the Rappahannock River over any 24 month period shall not exceed 10.4 billion gallons.

4. The permittee shall monitor the USGS Rappahannock River near Fredericksburg Gage No. 01668000 (hereafter "Fredericksburg gage") daily when withdrawals are anticipated, at approximately the same time each day, to determine whether withdrawals are authorized. Withdrawals shall be authorized in accordance with these permit conditions, except under any of the following circumstances:
  - a. Tier 1: The stage is greater than or equal to the value shown in Table 1 AND flow in the Rappahannock River, as measured at the Fredericksburg gage, is less than the corresponding month's Tier 1 Minimum Instream Flow in Table 2.
  - b. Tier 2 (March, April, and May of any year): The stage is greater than or equal to the value shown in Table 1, BUT less than the stage value listed for Tier 1, AND flow in the Rappahannock River, as measured at the Fredericksburg gage, is less than the corresponding month's Tier 2 Minimum Instream Flow in Table 2.
  - c. Tier 3: The stage is less than or equal to the value shown in Table 1 AND flow in the Rappahannock River, as measured at the Fredericksburg gage, is less than the corresponding month's Tier 3 Minimum Instream Flow in Table 2.
  - d. Tables 1 and 2:

<b>Table 1: Reservoir Stages (<i>feet above mean sea level</i>) [based on normal pool elevation of 226 feet above mean sea level]</b>				<b>Table 2: Minimum Instream Flows (<i>cubic feet per second</i>)*</b>		
<b>Month</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
January	202.5	-	202.5	703	-	383
February	205.2	-	205.2	703	-	383
March	223.2	210.2	210.2	1646	1024	703
April	224.2	214.9	214.9	1646	1024	703
May	225.2	219.1	219.1	1646	1024	703
June	214.9	-	214.9	1024	-	703
July	210.2	-	210.2	703	-	383
August	205.2	-	205.2	703	-	383
September	202.5	-	202.5	703	-	383
October	202.5	-	202.5	703	-	383
November	199.7	-	199.7	703	-	383
December	199.7	-	199.7	703	-	383

\* No change has been made to the minimum instream flow values established in Virginia Water Protection Permit No. 99-2064 issued December 5, 2003.

- e. Whenever the provisional streamflow at the Rappahannock River gage near Fredericksburg is at or below 771 cubic feet per second (cfs), Stafford County shall monitor the gage every 6 hours until the provisional streamflow rises above 771 cfs. If the permittee desires to withdraw water and the provisional streamflow is less than or equal to 771 cfs, Stafford County shall contact Spotsylvania County on a daily basis to determine whether Spotsylvania County is pumping on either the Rapidan or Rappahannock Rivers. If Spotsylvania County is not pumping but is planning to begin pumping, then Stafford shall stop pumping at the next monitoring episode if either Stafford County's pumping causes the flow to drop below the minimum instream flow or if the flow naturally falls below the criteria established in Part I.D.4.a through I.D.4.d.
5. In the event that the Governor or the Virginia Drought Coordinator declares a drought emergency in the Northern Piedmont Drought Evaluation Region, which includes but is not limited to Stafford County, the permittee shall implement either the provisions directed by the declaration, or the mandatory conservation measures detailed in the Stafford County Water Supply Emergency Ordinance (Article II, Division 2 of Ordinance No. 06-24), whichever is most restrictive. The permittee shall be responsible for determining when drought emergencies are declared.
6. The following releases shall be made from the Rocky Pen Run Reservoir dam when Stafford County *is not* operating under mandatory water use restrictions. Inflow shall be estimated weekly based on the drainage area adjusted flow of the USGS Aquia Creek near Garrisonville Gage No. 01660400. Flow below the Rocky Pen Run Reservoir dam shall include any available water treatment plant backwash discharge.
  - a. March: 8.3 cfs or inflow, whichever is less, but not less than 2 cfs;
  - b. April: 7.8 cfs or inflow, whichever is less, but not to be less than 2 cfs;
  - c. May: 5.9 cfs or inflow, whichever is less, but not to be less than 1.5 cfs;
  - d. June, July, November, December, January: not less than 1.5 cfs; and
  - e. August, September, October: not less than 1.0 cfs.
7. The following releases shall be made from the Rocky Pen Run Reservoir dam when Stafford County *is* operating under mandatory water use restrictions. Inflow shall be estimated weekly based on the drainage area adjusted flow of the USGS Aquia Creek near Garrisonville Gage No. 01660400. Flow below the Rocky Pen Run Reservoir dam shall include any available water treatment plant backwash discharge.



- a. March and April: not less than 2 cfs;
- b. May: not less than 1.5 cfs; and
- c. June through February: not less than the Toe Drain Release within plus or minus 0.5 cfs.

**E. Required Monitoring, Notifications, and Submittals**

1. The permittee shall monitor surface water withdrawals on a daily basis and shall install, use, and maintain a totalizing flow meter or similar device, or employ a similar methodology, that will enable the accurate determination of daily surface water withdrawals. On each day that water is withdrawn, the permittee shall record: the date and time(s) that the Fredericksburg gage is read; the required flow at the Fredericksburg gage for pumping to occur; the total volume of water pumped on that date; whether mandatory conservation is in effect on that date; if coordination is required, whether Spotsylvania County is withdrawing water; the discharge released from the water treatment plant to the downstream toe of the dam; and the total volume and elevation of water in Rocky Pen Run Reservoir. The permittee shall file a semi-annual monitoring report on October 1<sup>st</sup> for the period of March 1<sup>st</sup> through August 31<sup>st</sup> and on April 1<sup>st</sup> for the period of September 1<sup>st</sup> through February 29<sup>th</sup> to demonstrate compliance with the water withdrawal special conditions of this permit. The report shall be in an electronic format such as Microsoft Excel or Access, or a similar format, for evaluation and analysis by DEQ.
2. By December 31, 2012, the permittee shall provide to DEQ a monitoring plan that describes or includes a description of how Stafford County will determine the daily streamflow at the Fredericksburg gage; a streamflow and water withdrawal monitoring report table designed for use in recording and reporting compliance with permit conditions; and a plan for what measures the permittee will put in place to estimate streamflow in the event that the Fredericksburg gage is damaged, disabled, discontinued or moved.
3. All written communications required by this permit shall be submitted to the Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia 23218. Please include the permit number on all correspondence.
4. The DEQ VWPP Program shall be notified in writing at least ten days prior to the start of activities authorized under this permit so that inspections of the project can be planned, if deemed necessary. The notification shall include identification of the impact area and

compensation site at which work will occur and a projected schedule for completing work at each permitted impact area and compensation site.

5. Any fish kills or spills of fuels or oils shall be reported to DEQ Northern Regional Office immediately upon discovery at (703) 583-3800. If DEQ cannot be reached, the spill shall be reported to the Virginia Department of Emergency Management (DEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802.
6. Violations of State water quality standards shall be reported within 24 hours to the DEQ Northern Regional Office at (703) 583-3800.
7. The permittee shall notify the board in writing when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by the board.
8. Stream mitigation monitoring shall be conducted in accordance with the final mitigation plan approved by the DEQ. All monitoring reports shall be submitted by November 30th of the monitoring year. Monitoring reports shall include:
  - a. Photographs sufficient to document installation of specific structures and vegetative plantings or where the stream channel banks are reshaped. Permanent markers shall be established to ensure that the same locations and view directions at the site are photographed in each monitoring period.
  - b. Discussion of the establishment of vegetation, if applicable.
  - c. Any alterations, maintenance, and corrective actions conducted at the stream mitigation site.
9. All reports required by this permit and other information requested by the board shall be signed by the applicant or a person acting in the applicant's behalf, with the authority to bind the applicant. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described above; and
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized

representative may thus be either a named individual or any individual occupying a named position.

If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the board prior to or together with any separate information, or applications to be signed by an authorized representative.

10. All submittals required by this permit shall contain the following signed certification statement:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation.*

#### **F. Impingement and Entrainment Conditions**

1. The maximum intake screen width openings shall not exceed 1.0 millimeters.
2. The maximum through screen intake velocity shall not exceed 0.5 feet per second.
3. The permittee shall submit an entrainment-monitoring plan at least one year prior to pumping. At a minimum the plan shall include weekly monitoring between February 15 through May 31, unless otherwise approved by the Department of Game and Inland Fisheries. The plan shall be designed with the input of the Department of Game and Inland Fisheries. The duration of monitoring shall last five years unless reduced by the recommendation of the Department of Game and Inland Fisheries to 3 years.

#### **G. Stream Compensation**

1. The permittee shall compensate for the permanent impacts to 7.6 acres of stream bed in accordance with the final Comprehensive Riverine Mitigation Plan and subsequent submittals, as approved by the DEQ. Stream compensation shall be implemented in conjunction with taking the surface water impacts authorized by this permit. All comments on the plan provided by DEQ shall be addressed to the satisfaction of DEQ prior to initiating any procedures necessary to begin filling the reservoir with water.

2. Should any of the identified stream compensation sites be deemed unfeasible, per the coordination between the permittee, the permittee's agent(s), DEQ, and the U.S. Army Corps of Engineers (Corps), the permittee shall submit a contingency plan that describes in detail the actions that will be taken to evaluate and design an alternative stream compensation site and to record a protective instrument. Any identified alternative site(s) shall be of similar type, length, and scope.
3. The permittee shall submit documentation on a calendar-year quarterly basis that the stream compensation activities have progressed as detailed in the most recent schedule of the Comprehensive Riverine Mitigation Plan.
4. The permittee may request interim DEQ approval of each site identified in the Comprehensive Riverine Mitigation Plan in order to implement the necessary design or easement acquisition required by this permit. Such a request shall include the proposed design plan sheets and the draft protective instrument language. DEQ shall have 45 days to review the request, and provide either interim approval or comments on the site plans and protective instrument language. All comments made by DEQ must be addressed to DEQ's satisfaction prior to recording the protective instrument.

#### **H. Wetland Compensation**

1. The permittee shall compensate for the permanent impacts to 2.3 acres of emergent wetlands, permanent impacts to 0.4 acres of scrub/shrub wetlands, and permanent impacts to 1.3 acres of forested wetland impacts by debiting available credits at the Blackjack Mitigation Bank. Impacts will be compensated at ratios of 1:1 for permanent emergent wetland impacts (2.3 credits debited), 1.5:1 for permanent scrub/shrub wetland impacts (0.6 credits debited), and 2:1 for permanent forested wetland impacts (2.6 credits debited).
2. The permittee shall submit documentation to DEQ within 60 days prior to the taking of impacts that the USACE has debited the required mitigation credits from the mitigation bank ledger.

## **Part II – General Conditions**

### **A. Duty to Comply**

The permittee shall comply with all conditions of the VWP permit. Nothing in this permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or reissuance.

### **B. Duty to Cease or Confine Activity**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

### **C. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.

### **D. VWP Permit Action**

1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.
2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185.
3. VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in the Duty to Comply subsection above, or for other reasons listed in 9 VAC 25-210-180.

**E. Inspection and Entry**

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit; and
3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

**F. Duty to Provide Information**

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.
2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

**G. Monitoring and Records Requirements**

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.
4. Records of monitoring information shall include:
  - a. The date, exact place and time of sampling or measurements;

- b. The name of the individuals who performed the sampling or measurements;
- c. The date and time the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

**H. Reopener**

This permit may be reopened to modify conditions to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the permit was issued and thereby constitute cause for permit modification or revocation and re-issuance.

**I. Compliance with State and Federal Law**

Compliance with this permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

**J. Property rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

**K. Transferability**

Except as provided for under automatic transfer, a permit shall be transferred only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new permittee. A permit shall be automatically transferred to a new permittee if:

1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;
2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and
3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.

**L. Civil and Criminal Liability**

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

**M. Unauthorized Discharge of Pollutants**

Except in compliance with this permit, it shall be unlawful for the permittee to dredge, fill, or discharge any pollutant into, or adjacent to surface waters, or otherwise alter the physical, chemical, or biological properties of state waters, excavate in a wetlands, or on or after October 1, 2001 conduct the following activities in a wetland:

1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
2. Filling or dumping;
3. Permanent flooding or impounding; or
4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

**N. Severability**

The provisions of this permit authorization are severable.

**O. VWP Permit Extension**

Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit, shall submit written notification requesting an extension. The permittee must file the request prior to the expiration date of the VWP permit. Under no circumstances will



the extension be granted for more than 15 years beyond the original effective date of the VWP permit. If the request for extension is denied, the VWP permit will still expire on its original date and, therefore, care shall be taken to allow for sufficient time for the board to evaluate the extension request and to process a full VWP permit modification, if required.